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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,759	04/14/2004	Kuo-Rong Chen	OP-093000122	5064

7590 01/23/2007
Yi-Wen Tseng
4331 Stevens Battle Lane
Fairfax, VA 22033

EXAMINER

SANEI, HANA ASMAT

ART UNIT	PAPER NUMBER
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2879

MAIL DATE	DELIVERY MODE
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01/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/823,759

Applicant(s)

CHEN ET AL.

Examiner

Hana A. Sanei

Art Unit

2879

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached Correspondence.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation Sheet (PTO-303)**Application No. 10/823,759**

Continuation of 3. NOTE: Inclusion of new limitations of "each second aperture covering an opening range of a row or column of the first aperture" and "each third aperture cover[ing] an opening range of a row or a column of the first aperture" in Claim 1 changes the scope of the claim and hence requires new search and consideration. Furthermore, Applicant should note that the inclusion of the dependent claims 3 and 5 do not equate to the originally filed set of claims since both previous dependent claims 3 and 5 were separately dependent upon independent claim 1. As a result, a change in scope is present and noted by Examiner.

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Response to Arguments

Applicant's arguments filed on 12/24/06 have been fully considered but they are not persuasive.

In response to Applicant's arguments that Tomii et al (US 5160871) does not disclose the limitations that "each second aperture covering an opening range of a row or column of the first aperture" and "each third aperture cover[ing] an opening range of a row or a column of the first aperture," the Examiner respectfully disagrees.

Tomii does indeed teach that each second aperture (spacing between partition 231, 232, Figs. 7 & 9) covers an opening range of a row or column of the first aperture (holes 219 of focusing electrode 215). Firstly, Fig. 9 of Tomii shows a side view of a plate or focusing electrode 215 with apertures (empty spaces between respective 215). Fig. 7 shows a plan view of focusing electrodes, where the Examiner interprets the empty spaces between respective 215 of Fig. 9 to be the through holes 219 of the very same focusing electrode 215 (refer to Col. 8, lines 49-54 where Tomii clearly links Fig. 7 to Fig. 9).

Therefore it is reasonable to state that Tomii teaches each second aperture (partitioning of 231, 232, Figs. 7 & 9) covering an opening range of a row or column of the first aperture (holes 219 of focusing electrode 215). Furthermore, as long as the spaces between the partitioning 231, 232 "cover" or "overlap" the through hole 219 of focusing electrode 215, which they clearly do (Fig. 9), then the second aperture covers some portion of a row or column.

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When applicant uses the language **covering an opening range of a row or column of the first aperture**, Examiner reminds applicant that the phrase "opening range" is broad and includes any number of interpretations. The requirement of the second aperture covering an opening range of a row or column of the first aperture is met by Tomii as long as Tomii's second aperture (spacing between partitions 231 & 232) overlap or cover **some portion** of any one of a row or column of the first aperture (218) because the plurality of first apertures 218 in a matrix format inherently comprises rows and columns (see Fig. 7). For example, the phrase "an opening range" is not equivalent to "an *entire* opening range," as the former is significantly broader.

The same logic is applied to "each third aperture cover[ing] an opening range of a row or a column of the first aperture,"

For the reasons stated above, the rejection of the claims is deemed proper.

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hana A. Sanei whose telephone number is (571) 272-8654. The examiner can normally be reached on Monday- Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar D. Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hana A. Sanei
Examiner



Joseph Williams
Primary Examiner